IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1053 OF 2006
IN
FIRST APPEAL (STAMP) NO.21675 OF 2005
IN
SUIT NO.3860 OF 2004

Maharashtra Judo Association Trust
Through its Trustees:
1) Shri.Dhananjay S.Bhosle & Anr. ...Appellants

Versus

Poona Judo Association (Mahrashtra
B Group), represented at present by
Shri Sarang Sathe ...Respondents

And

Poona Judo Association (Mahrashtra
B Group), represented at present by
Shri Sarang Sathe ...Applicants

AND

CIVIL APPLICATION NO.4269 OF 2005
IN
FIRST APPEAL (STAMP) NO.21675 OF 2005
IN
SHORT CAUSE SUIT NO.3860 OF 2004

Maharashtra Judo Association Trust
Through its Trustees:
1) Shri.Dhananjay S.Bhosle & Anr. ...Applicants

Versus

Poona Judo Association (Mahrashtra
B Group), represented at present by
Shri R.B.Namjoshi ...Respondents

.....

Mr.V.A.Thorat, Sr.Counsel with Mr.S.S.Deshmukh

for Applicants.

Mr.Virendra Tulzapurkar, Sr.Counsel with
Mr.Umesh Deshpande for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

FEBRUARY 23, 2006.

P.C.

1. Heard Counsel for the parties. In my opinion, arguable questions are raised. Hence, Appeal is admitted. Mr.Umesh Deshpande waives notice for Respondents.

2. Insofar as interim relief claimed, it is seen that this Court on 4th October 2005 directed the parties to observe the protocol provided in terms of Clause 4(A) of the constitution of the Appellant association. Clause 4A reads thus :

> 4. Representation of the State of Maharashtra :
>
> A) The practice of the State being represented by two teams namely 'MAHARASHTRA - A' representing greater Bombay and 'MAHARASHTRA - B' representing the rest of Maharashtra shall continue until otherwise decided by the National Federation. Separate selection contests for the two teams shall be conducted on behalf of M.J.A. by (a) The Bombay Judo

Association and (b) The Poona Judo Association."

3. According to the Appellants, with a view to comply with the directions given by this Court in the interim order, the Appellants had called upon Respondents by communication dated 23rd January 2006 addressed to the trustee of Respondents Association which reads thus :

"23 January 2006

To,
Shri.Balasaheb alias Dilip P.Deokar,
Trustee,
Poona Judo Association,
605, Narayan Peth,
Pune 411 030.

Sub : Conducting the selection of Team representing the Maharashtra State for the National Tournaments to be held at Mumbai in the month of March 2006 at the State Tournaments to be held at Aurangabad on the 18th and 19th of February 2006.

Sir,

This is to inform you that the Maharashtra Judo Association is going to hold Yearly State Judo Tournament at Aurangabad as stated under subject above.

According to the latest existing order of the High Court Mumbai, the selection of the Maharashtra team (Group B) is to be carried out by the Poona Judo Association.

In the past the State team of the Maharashtra Judo Association (Group B) has usually been selected at such yearly State Tournaments where the Poona Judo Association sends the observers to see that the Selection of the State team is to their satisfaction.

It is therefore, requested that you may please remain present for the Tournament at Aurangabad mentioned above in person or by sending authorized representative so that the order of the Hon. High Court Mumbai is duly followed.

Thanking you,

Your's Truly

Sd/-
(R.V.Patwardhan)
Secretary,
Maharashtra Judo Association."

(emphasis supplied)

4. According to the Respondents, however, the Respondents had already announced State Level event for selection trial titled as 'Selection Trial' for nominating team members to be sent as 'Group B' Team to represent State team. The Respondents proceeded with the said event and claims to have now identified players to be sent as 'Group B' State Team.

5. On the other hand, according to the

Appellants, the Respondents had no authority to undertake such exercise. That is so because in the past, the practice followed by both the Associations has been that the State Team of the Maharashtra Judo Association Group B was to be selected at yearly State tournaments to be conducted under the banner of the Appellants in which event, the Respondents Association is required to send observers to see that the section of the State Team is to their satisfaction.

6. The controversy raised before this Court insofar as grant of direction in terms of the relief claimed in the application filed by the Respondents is concerned, in my opinion, stands answered by the stand taken by the Appellants in its communication dated 23rd January 2006 to the above effect. There is no denial of that fact. If it is so, merely because the Respondents Association proceeded to announce conducting of event titled as selection trial that cannot be the basis to allow the Respondents to send Group B State Team amongst such small number of participants. On the other hand, the selection

process undertaken by the Appellants was conducted at the State level at Aurangabad where 16 teams participated from different Districts and the candidates identified in the said tournament have been identified to be nominated as members of the State Team.

7. In the fact situation of the present case, therefore, it is not possible to accede to the request made by the Respondents Association in terms of relief claimed in Civil Application No.1053 of 2006. That application will therefore have to be rejected.

8. There is hardly any time left for the Appellants for nominating the participants to represent the State Team to be sent at the National Level. I am informed across the bar that, that formality will have to be complied with by tomorrow which is the last date.

9. In the circumstances, as mentioned earlier, the application preferred by the Respondents Association is rejected. Instead, the

Civil Application filed by the Appellant Association being Civil Application No.4269 of 2005 is allowed while continuing the interim arrangement ordered by this Court in its order dated 4th October 2005 for future events to be held by the

respective Associations in accord with the past practice which was observed for the selection process.

A.M.KHANWILKAR, J.